

**THE WYOMING COUNTY BUSINESS ASSISTANCE CORPORATION**  
**REVOLVING LOAN FUND**  
**GUIDELINES**

Approved 9/12/19

## Section 1. GENERAL

1.1 Revolving Loan Fund Guidelines. The Guidelines are adopted by the Board of Directors of the Wyoming County Business Assistance Corporation. ("WCBAC") and are intended to serve as the primary administrative document for the Revolving Loan Fund (the "RLF"). Any changes to the Guidelines must be approved by the WCBAC Board of Directors.

1.2 Objectives. The primary objectives of the RLF are to assist in the establishment and expansion of business activity within Wyoming County, create employment opportunities for County residents, and preserve and expand the County's tax base.

1.3 Form of Assistance. The RLF will provide assistance in the form of loans. Eligibility is based on qualifications of credit and the eligibility requirements set forth in these Guidelines.

## Section 2. ELIGIBILITY REQUIREMENTS

### 2.1 Eligible Activities.

- (a) The business activity to be undertaken with assistance from the RLF must directly result in the expansion or establishment of a business location within Wyoming County.
- (b) RLF assistance may be provided for any commercial business activity which meets the RLF Guidelines.

2.2 Ineligible Activities. Activities that primarily consist of investing, speculation, or realty ownership held primarily for sale or investment; any activity which is illegal; and any activity which does not further the objectives of the RLF will be ineligible for RLF financing. Applications will not be accepted if the purpose is to refinance existing debt.

2.3 Eligible Borrowers. Eligible borrowers must be a company or business either currently established or planning to establish a location in Wyoming County. Status is determined at the time of the loan application. The form of the business may be a sole proprietorship, partnership, corporation, LLC, LLP, or any other legal form of business.

2.4 Eligible Uses of the RLF. The RLF may be used for any justifiable business purpose including, but not limited to property acquisition, building materials, equipment, fixed assets, inventory and permanent working capital.

## Section 3. RLF FUND STANDARDS

3.1 General. The existing or proposed Business must present a reasonable likelihood for long-term viability based on such factors as management, product,

marketability, competition, and capitalization. Borrowers must be of generally good character and credit standing and must not be in arrears in the payment of any real property taxes.

3.2 Employment. Where the Business will result in the creation or retention of employment opportunities and for purposes of the calculation of employment opportunities that will be used by the Wyoming County Business Assistance Corporation for reporting purposes, the following will apply:

- (a) Only permanent jobs will be counted; temporary and construction jobs will not be counted.
- (b) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 35.
- (c) Seasonal jobs will be considered to be permanent jobs if the duration of the working period is long enough to classify the job as the employee's principal occupation.

3.3 RLF Fund Financing Amount. The WCBAC RLF Fund is designed to work in collaboration with traditional commercial lenders. RLF assistance will not be the first source of financing. Applicants must therefore demonstrate that all other private and public sources of debt and equity have either been maximized or are inappropriate, unaffordable, or unavailable.

3.4 Minimum Amount of RLF Fund Assistance. RLF Fund assistance will not be considered where the amount of such required assistance is less than fifty thousand dollars (\$50,000).

3.5 Maximum Amount of RLF Fund Assistance. Total RLF Fund assistance provided to a single Business or Company may not exceed the aggregate amount of two hundred thousand dollars (\$200,000). However, exceptions will be made at the discretion of the Board of Directors.

#### Section 4. LENDING POLICIES

4.1 General. All terms and conditions for RLF loans will be established by the WCBAC Board based upon the underwriting criteria. The WCBAC Board of Directors will review and discuss each application before making a decision to approve, modify or deny the loan request.

4.2 Term of Loans. The RLF loan term will generally be consistent with the life of the assets being financed, with such periods being consistent with standard commercial lending policies. For all loans, the term will be determined by the WCBAC based upon such factors as the structure of other related loans, and the nature of the collateralized assets.

4.3 Interest Rate. The interest rate charged for the use of RLF funds will be fixed at the time of the loan closing at a rate determined by the WCBAC Board of Directors. The RLF rate shall remain fixed throughout the term of the loan unless a default rate is applied pursuant to the Note and loan documents. *Note: The current RLF guidelines have established a recommended interest rate of five percent for loans to businesses that will locate or expand in Wyoming County.*

4.4 Repayment Terms. The WCBAC will determine the schedule of loan repayments on a case-by-case basis based on the applicant's projected ability to repay the loan, the projected value of the collateral and other security, and the overall risk assumed by the RLF. Repayment terms may involve standard forms of loan amortization, periods of accruing interest or interest only payments, extended amortization schedules with balloon payments of principal, and/or such other terms as may be determined by the WCBAC to be appropriate. *Note: The current RLF guidelines have established recommended amortization schedules as follows:*

Real Estate – up to 10 years

Non- Real Estate – 3 to 7 years (depending on the useful life of the asset)

4.5 Security. The WCBAC will determine the required security for each loan on a case-by-case basis based on such factors as the risk of default, the nature and value of the security, and the position of the RLF in relation to other lenders. In determining the appropriate security, the following will apply:

- (a) The WCBAC will require a security interest in all assets financed with the RLF. Additional collateralization of assets of the borrower may be required at the WCBAC's option.
- (b) All RLF loans will require the personal guarantee of each individual who owns at least a 20% interest in the borrower.
- (c) For loans to closely-held limited liability entities (including corporations and limited liability companies), the WCBAC may require collateralization of selected personal assets of one or more of the owners.
- (d) For loans to individuals, partnerships, limited liability companies or corporations that have affiliated interests and/or identities of ownership with other business entities, the WCBAC may require additional guarantees.

4.6 Subordination.

- (a) The WCBAC will take a subordinate collateral position to the primary lender where necessary to facilitate the maximum financial participation by the private lenders.
- (b) The priority/standing of the RLF's financing relative to other public or quasi-public lenders will be negotiated on a case-by-case basis.
- (c) The WCBAC will generally require a subordination to RLF financing of notes payable to any officer, owner, or similarly affiliated party to the borrower where

appropriate and feasible. Such subordination may include subordinate security interests and/or repayment restrictions.

## Section 5. APPLICATION PROCESSING

5.1 Loan Applications. Applications for RLF financing must include all of the information required by the RLF Application Form and any additional information as may be reasonably requested by the WCBAC.

5.2 Application Fee. A non-refundable \$200 fee made payable to the Wyoming County Business Assistance Corporation shall be submitted with the application for RLF financing.

5.3 Application Processing. The processing of loan applications will be the responsibility of the WCBAC and will generally consist of the following:

- (a) Review of applications for completeness and procurement of appropriate additional information;
- (b) Determine economic feasibility, perform credit analysis, and assess risk;
- (c) Determine amount and terms of RLF financing, including appropriate security;
- (d) Perform appropriateness review and
- (e) Prepare written report to the WCBAC Board of Directors summarizing the review process and providing recommendations as appropriate.

5.4 Loan Approval. The WCBAC Board of Directors shall have sole authority to approve RLF loans. Such authority shall include the commitment to lend RLF funds, the interest rate(s) to be charged, the repayment terms, and the requisite security for the loan. The WCBAC Board may, by resolution or other action duly taken at a Board meeting, delegate to the WCBAC President the authority to negotiate specific loan requirements as specified in the resolution or action. The application of other appropriate conditions of lending and covenants of the borrower shall be the responsibility of the WCBAC Attorney with input from the WCBAC Board of Directors and/or executive staff.

5.5 Loan Disapproval.

- (a) Loan applications may be disapproved by the President of the WCBAC based on a lack of application completeness or a failure to meet the eligibility criteria pursuant to Sections 5.3(a) and 5.3(b) of this Plan respectively. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.
- (b) Loan applications may be disapproved by the WCBAC Board of Directors for any reason or reasons which represent a reasonable determination that the approval

of the RLF application would not meet the objectives of the RLF program and/or would not represent an appropriate or prudent use of RLF funds. In such instances, the applicant will be notified in writing of the reason(s) for disapproval.

## Section 6. POST-APPROVAL PROCESS

6.1 Borrower Requirements. Borrowers will be required to agree to allow the WCBAC to access information necessary to perform periodic evaluations of the business, provide financial statements and information as required.

6.2 Commitment Letter. Within ten calendar days from the date of the WCBAC's approval of an RLF loan, a commitment letter shall be sent to the applicant which includes at a minimum, the following information:

- (a) The amount of the loan approved, the applicable interest rate, the term of the loan, the terms of repayment, and the expiration date of the commitment.
- (b) The required use of the loan funds.
- (c) The RLF's requirements for collateral and additional security - including guarantees, pledges of assets, assignment of life insurance, etc.
- (d) Any other conditions of lending.
- (e) A listing and explanation of any fees to be charged and other closing costs which will be the responsibility of the borrower.
- (f) A listing of those conditions and requirements of the borrower which must be fulfilled precedent to a loan closing.
- (g) Any other information that could reasonably be expected to influence the borrower's decision to accept the terms of the loan commitment.

6.3 Loan Closings. The WCBAC shall have the responsibility to prepare and/or require the preparation of all appropriate closing documents. The borrower shall be required to pay all WCBAC Attorney fees at the time of the loan closing, such fee to represent a portion of the closing costs incurred by the WCBAC. Also due at closing, a loan origination fee of ½% of the amount borrowed. Such fees may be paid from the RLF loan proceeds. The WCBAC shall determine the appropriate closing documents to be executed based upon the terms and conditions of the loan approval and standard commercial lending policies. Such documents shall generally include the following:

- (a) A loan agreement which includes a description of the loan terms and security, appropriate representations and warranties, the conditions of lending, affirmative and negative covenants - including compliance with applicable federal laws and regulations, requirements regarding employment creation and reporting, default provisions, and any other provisions which may be appropriate.
- (b) A note or notes to evidence the indebtedness and the terms of repayment.

- (c) The appropriate documents to evidence and record mortgages, liens, guarantees, and such other security as may be required by the terms of the loan.
- (d) Other appropriate documents as determined by the WCBAC Attorney.

6.4 Security. The WCBAC will be responsible for perfecting all of the RLF's security interests including, where appropriate, the execution of security agreements, the filing of financing statements, the execution and filing of mortgage documents, the execution of guarantees, and any other appropriate actions to adequately protect the RLF's security interests. Intercreditor agreements will be executed where appropriate to further protect the RLF's interests and to facilitate the processing of defaults and foreclosures.

6.5 Loan Disbursements. The disbursement of loan proceeds shall be the responsibility of the WCBAC. For such disbursement, the following guidelines shall generally apply:

- (a) Subject to the borrower's compliance with the terms and conditions of the loan agreement, all documents evidencing and securing the loan, and other guidelines for disbursement as described in this Section 6.5, the WCBAC may disburse loan proceeds upon the borrower's presentation of vouchers and other such evidence satisfactory to the WCBAC which represent paid or accrued expenses of the borrower and which are eligible costs as determined by the WCBAC.
- (b) Where other debt or equity financing is to be used in conjunction with the RLF financing, such debt or equity must, in the opinion of the WCBAC, be firmly committed for such use. Evidence of the commitment(s) must be submitted by the borrower.
- (c) Where other debt or equity financing is to be used in conjunction with the RLF financing, the WCBAC will, at its discretion, determine an appropriate draw schedule for RLF funding based on such factors as the magnitude of risk assumed by the RLF, the nature of the activities being financed and the draw schedule for the other financing. The manner and terms of the disbursement of the RLF financing should normally be included in the approval of the financing by the WCBAC Board of Directors. However, in instances where the Board has not prescribed a draw schedule, the WCBAC President may approve a draw schedule.

## Section 7. LOAN MANAGEMENT

7.1 Delinquencies. The WCBAC will contact the borrower within thirty (30) calendar days of any delinquency of payment to inform the borrower of the delinquency and to determine if there is a need to procure additional information or to provide technical assistance. Delinquencies which continue for ninety (90) days will be referred to the WCBAC Attorney and WCBAC Board for further action.

7.2 Adjustment of Terms and Conditions. Requests by the borrower for adjustment of any of the terms and conditions of the loan will be reviewed by the WCBAC President to determine whether the adjustment is in the best interests of the RLF program. Requests will be processed in accordance with the following:

- (a) Requests to adjust the interest rate, term of the loan, or security for the loan will be reviewed by the WCBAC President and presented to the WCBAC Board of Directors for action. Any such adjustments will require approval of the WCBAC Board.
- (b) Requests to accrue interest or to pay interest only may be approved by the WCBAC President for a period not to exceed sixty (60) days. Extensions for any longer period will require the approval of the WCBAC Board.
- (c) Requests for changes respecting any covenants or conditions of a financial nature must be approved by the WCBAC Board as to content and the WCBAC Attorney as to form.
- (d) Requests for any other changes to the covenants or conditions of the loan including, but not limited to such areas as reporting requirements, cost documentation, and maintenance of records may be approved by the WCBAC President or referred to the WCBAC Board at the President's discretion.

7.3 Annual Financial Review. The WCBAC will be responsible for conducting an annual financial review for all borrowers based primarily on the annual financial statements submitted by the borrower. Additional information may be procured as appropriate. The reviews will be presented to the WCBAC Board for further action or recommendations as appropriate.

7.4 Compliance Monitoring. The WCBAC will be responsible for monitoring the borrower's compliance with all of the conditions and covenants of the Loan Agreement. Such responsibility shall include taking appropriate actions in the event of non-compliance, informing the WCBAC Board of Directors and WCBAC Attorney of any incidence of default under the terms and conditions of the loan agreement, and providing file documentation as appropriate.

7.5 Default - Condition of Financial Hardship. In asserting its remedies upon a default of the borrower, the WCBAC Board of Directors may elect not to pursue and/or liquidate personal assets of the borrower if such action will clearly present an extraordinary financial hardship to the borrower, the borrower's family, or any loan guarantor. Extraordinary financial hardship is generally defined as the creation of a condition of bankruptcy or the loss of personal assets which are necessary to enjoy a minimum level of living comfort.